

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

JAN 30 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

LEONARD EDELL WILLIAMS, JR.,

Appellant.

2 CA-CR 2005-0430
DEPARTMENT A

MEMORANDUM DECISION

Not for Publication
Rule 111, Rules of
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause No. CR20050131

Honorable Peter J. Cahill, Judge

AFFIRMED

Emily Danies

Tucson
Attorney for Appellant

H O W A R D, Presiding Judge.

¶1 After a jury trial, appellant Leonard Williams was convicted of misdemeanor criminal damage to property and ordered to pay a fine of \$200, plus a \$160 surcharge, and to make restitution to his son, James Merle Williams, in the amount of \$115. Williams appeals from this conviction and sentence.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has reviewed the record but has found no arguable issues to raise on appeal. Williams has not filed a supplemental brief.

¶3 Despite her conclusion that no issue in Williams’s case warrants an appeal, counsel suggests the amount of restitution the court ordered “may provide the appearance of an arguable issue.” According to the testimony of Gila County Deputy Sheriff Jackson, Williams had admitted that, after an altercation with his son, he broke the windows in a car belonging to his daughter-in-law, Susan Williams, and beat it with a hammer. Susan and James Merle Williams each testified that only the driver’s window was spared. James Merle Williams testified that he had paid \$75 for a replacement windshield and that he had “traded out” approximately one-half day’s automobile repair work to obtain side and rear replacement windows.

¶4 At the sentencing hearing, the trial court reasoned the restitution should include four hours of labor at the rate of \$10 per hour as well as \$75 for the purchase of the windshield, for a total of \$115. Williams objected on the ground that “James Merle Williams never works and has not ever made \$10 . . . an hour,” but the court found the work performed was “not unskilled work” and rejected Williams’s suggestion that any compensation be limited by the minimum wage. “A court has wide discretion in setting restitution based on the facts of each case.” *State v. Ellis*, 172 Ariz. 549, 551, 838 P.2d 1310, 1312 (App. 1992). We conclude the restitution ordered in this case “bears a reasonable relationship to the victim’s loss,” *State v. Lindsley*, 191 Ariz. 195, 197, 953 P.2d 1248, 1250 (App. 1997),¹ and we therefore uphold the award.

¹Although testimony established that the damaged vehicle belonged to Susan Williams, Williams was ordered to make restitution to his son, James Merle Williams. This was not error, however. As Division One of this court has held, “[w]hen an insurer has reimbursed a victim for an economic loss, the statutory mandate of restitution to the ‘victim’ is best served if the restitution order includes the insurer as a ‘victim’ suffering economic loss from defendant’s crime.” *State v. Steffy*, 173 Ariz. 90, 94, 839 P.2d 1135, 1139 (App. 1992). James Merle Williams testified that he paid for one replacement window and traded his labor for the others. He was thus like an insurer of the economic loss suffered by his

¶5 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety, viewing the evidence in the light most favorable to upholding the verdict. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence at trial was more than sufficient to establish Williams committed misdemeanor criminal damage to property, which requires proof that a defendant recklessly damaged property of another in an amount less than \$250. A.R.S. § 13-1602 (A)(1), (B)(4). The sentence is within the range of fines appropriate for this misdemeanor conviction, *see* A.R.S. § 13-802(B), and the court correctly assessed a surcharge of eighty percent of that fine in accordance with A.R.S. §§ 12-116.01, 12-116.02, and 16-954(C). Having found no reversible error, we affirm Williams’s conviction and sentence.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

GARYE L. VÁSQUEZ, Judge

wife, and the court properly awarded him restitution.